

AMENDED IN ASSEMBLY APRIL 24, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2202

Introduced by Assembly Member Saldana
(Coauthors: Assembly Members Lieber, Koretz, and Pavley)
(Coauthor: Senator Kuehl)

February 22, 2006

An act to amend Section 25214.10 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2202, as amended, Saldana. Hazardous waste: electronic devices.

(1) Existing law requires the Department of Toxic Substances Control to adopt regulations to prohibit an electronic device from being sold or offered for sale in this state if the electronic device is prohibited from being sold in the European Union on and after its date of manufacture, due to the presence of certain heavy metals. Existing law require these regulations to take effect January 1, 2007, or on or after the date the Directive 2002/95/EC, as adopted by the European Parliament and the Council of the European Union on January 27, 2003, takes effect, whichever date is later. Existing law defines the term "electronic device," for purpose of those provisions, with reference to the Electronic Waste Recycling Act of 2003, which defines the term "electronic device" as a video display device, as specified, that is identified by the department, pursuant to specified regulations, as a presumed hazardous waste when discarded.

A violation of the hazardous waste control laws, including a regulation adopted pursuant to those laws, is a crime.

This bill would *define the term “ROHS Directive” to mean that directive and would revise the definition of “electronic device” for purposes of that sale prohibition to mean, instead, a device that is dependent on electric currents or electromagnetic fields to work properly or is a device for the generation, transfer, or measurement of electric currents or fields, that falls under the categories set out in Annex IA to Directive 2002/96/EC, and that is designed for use with a voltage rating that does not exceed 1000 volts for alternating current and 1500 volts for direct current, and that falls within the scope of, and meets a definition specified in, the ROHS Directive.*

The bill would exempt, from the regulations adopted pursuant to those provisions, an electronic device, or a component of such a device, that is not subject to the ROHS Directive. The bill would require the regulations adopted by the department to implement the changes made by the bill to take effect on January 1, 2008.

Since a violation of those regulations would be a crime, the bill would impose a state mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25214.10 of the Health and Safety Code
2 is amended to read:
3 25214.10. (a) For purposes of this section, ~~“electronic the~~
4 *following definitions shall apply*
5 (1) “Electronic device” means a device that meets all of the
6 following conditions:
7 ~~(1) The device that~~
8 (A) *The device* is dependent on electric currents or
9 electromagnetic fields to work properly or is a device for the
10 generation, transfer, or measurements of electric currents or
11 fields.

1 ~~(2)~~

2 (B) The device falls under the categories set out in Annex IA
3 to Directive 2002/96/EC, adopted by the European Parliament
4 and the Council of the European Union on January 27, 2003, and
5 as amended thereafter by the Commission of European
6 Communities.

7 ~~(3)~~

8 (C) The device is designed for use with a voltage rating that
9 does not exceed 1000 volts for alternating current and 1500 volts
10 for direct current.

11 (D) *The device, or a component of the device, falls within the*
12 *scope of Article 2 of the ROHS directive and meets the definition*
13 *of “electrical and electronic equipment” of point (a) of Article 3*
14 *of the ROHS directive.*

15 (2) *“ROHS directive” means Directive 2002/95/EC, adopted*
16 *by the European Parliament and the Council of the European*
17 *Union on January 27, 2003, on the restriction of certain*
18 *hazardous substances in electrical and electronic equipment, as*
19 *amended thereafter by the Commission of European*
20 *Communities. (13.2.2003 Official Journal of the European*
21 *Union).*

22 ~~(b)~~

23 (1) The department shall adopt regulations, in accordance with
24 this section, that prohibit an electronic device from being sold or
25 offered for sale in this state if the electronic device is prohibited
26 from being sold or offered for sale in the European Union on and
27 after its date of manufacture, to the extent that ~~Directive~~
28 ~~2002/95/EC, adopted by the European Parliament and the~~
29 ~~Council of the European Union on January 27, 2003, and as~~
30 ~~amended thereafter by the Commission of European~~
31 ~~Communities~~ *the ROHS Directive*, prohibits that sale due to the
32 presence of certain heavy metals, *except as provided in*
33 *paragraph (2).*

34 (2) *An electronic device, or a component of an electronic*
35 *device, that is exempt from the ROHS directive is exempt from*
36 *any regulation adopted pursuant to paragraph (1).*

37 (c) (1) Except as provided in paragraph (2), the regulations
38 adopted pursuant to subdivision (b) shall take effect January 1,
39 2007, or on or after the date ~~Directive 2002/95/EC, adopted by~~
40 ~~the European Parliament and the Council of the European Union~~

1 ~~on January 27, 2003, takes effect, whichever date is later. the~~
2 ~~ROHS Directive takes effect, whichever date is later.~~

3 (2) The regulations adopted to implement the changes made in
4 this section by the act of the 2005–06 Regular Session of the
5 Legislature amending this section shall take effect January 1,
6 2008.

7 (d) The department shall exclude, from the regulations
8 adopted pursuant to this section, the sale of an electronic device
9 that contains a substance that is used to comply with the
10 consumer, health, or safety requirements that are required by the
11 Underwriters Laboratories, the federal government, or the state.

12 (e) In adopting regulations pursuant to this section, the
13 department may not require the manufacture or sale of an
14 electronic device that is different than, or otherwise not
15 ~~prohibited by, the European Union under Directive 2002/95/EC,~~
16 ~~adopted by the European Parliament and the Council of the~~
17 ~~European Union on January 27, 2003. prohibited by, the ROHS~~
18 ~~directive.~~

19 (f) (1) The department may not adopt any regulations
20 pursuant to this section that impose any requirements or
21 conditions that are in addition to, or more stringent than, the
22 requirements and conditions expressly authorized by this section.

23 (2) In complying with this subdivision, the department shall
24 use, in addition to any other information deemed relevant by the
25 department, the published decisions of the Technical Adaptation
26 Committee and European Union member states that interpret the
27 ~~requirements of Directive 2002/95/EC. requirements of the~~
28 ~~ROHS Directive.~~

29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the
34 penalty for a crime or infraction, within the meaning of Section
35 17556 of the Government Code, or changes the definition of a
36 crime within the meaning of Section 6 of Article XIII B of the
37 California Constitution.